

APPLICANTS:
John and Gail Lord

REQUEST: A variance pursuant to
Section 267-26C(4) to allow an existing
barn within the front yard setback

HEARING DATE: May 19, 2004

BEFORE THE
ZONING HEARING EXAMINER
FOR HARFORD COUNTY
BOARD OF APPEALS
Case No. 5416

ZONING HEARING EXAMINER'S DECISION

APPLICANTS: John and Gail Lord

LOCATION: 3408 Widows Care Road/Charles Street subdivision, Fallston
Tax Map: 38 / Grid: 1F / Parcel: 37 / Lot: 3
Fourth Election District

ZONING: AG / Agricultural

REQUEST: A variance pursuant to Section 267-26C(4) of the Harford County Code to
allow an existing barn within the front yard setback.

TESTIMONY AND EVIDENCE OF RECORD:

John Lord, Applicant, testified that his newly constructed barn, built on his 11.16 acre parcel, was found to impact his 50 foot front yard setback only about five (5) months after the building was constructed. Mr. Lord stated that he had relied upon his builder to locate and to adhere to the appropriate setbacks. Mr. Lord had seen stakes in the ground, and believed that the setbacks were being observed.

The location of the barn, as shown on the location drawing of the Lord property, which is Attachment 3 to the Staff Report, is at an angle to the front lot line of the subject property, being anywhere from 27.1 feet to 39 feet off the line. Accordingly, the barn impacts the front minimum building setback line from 11 feet to 22.9 feet.

The barn itself is used to store Mr. Lord's motorcycle, privately used dump truck, and other motor vehicles and household equipment. The barn will not be used by Mr. Lord to house any commercial equipment. The area in which the barn is built is screened from adjoining properties by an existing dense wood line, most of which is on the adjacent property.

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Next for the Department of Planning and Zoning testified Anthony McClune.

Mr. McClune indicated the front lot line of the Lord property actually functions as a side yard. The lot is unusually situated in that it fronts a small cul-de-sac on Widows Care Road, which actually is a T-shaped turn around. If it were not for this cul-de-sac Mr. Lord would have used an alternate access off his property, and the barn would have been located next to a side yard setback, which only requires a 10 foot minimum setback.

The area on which the barn is located is fully screened by existing mature trees. The topography behind the barn onto the adjoining neighbor slightly rises. According to Mr. McClune, no adjoining neighbor would have a view of the barn. In Mr. McClune's and the Department's opinion the granting of the variance would have no adverse impact on any adjoining property.

There was no testimony or evidence presented in opposition.

APPLICABLE LAW:

Section 267-11 of the Harford County Code allows the granting of a variance to the requirements of the Code:

"Variances.

- A. Except as provided in Section 267-41.1.H., variances from the provisions or requirements of this Part 1 may be granted if the Board finds that:*
 - (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Part 1 would result in practical difficulty or unreasonable hardship.*
 - (2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Part 1 or the public interest.*
- B. In authorizing a variance, the Board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary, consistent with the purposes of the Part 1 and the laws of the state applicable thereto. No variance shall exceed the minimum adjustment necessary to relieve the hardship imposed by literal enforcement of this Part 1. The Board may require such guaranty or bond as it may deem necessary to insure compliance with conditions imposed.*
- C. If an application for a variance is denied, the Board shall take no further action on another application for substantially the same relief until after two (2) years from the date of such disapproval."*

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The Applicants are requesting a variance to Section 267-26C(4) of the Harford County Code which prohibit structures within the required front yard, which would be 50 feet in this instance:

Section 267-26C(4) states:

“No accessory use or structure shall be established within the required front yard, except agriculture, signs, fences, walls or parking area and projections or garages specified in Section 267-23C, Exceptions and modifications to minimum yard requirements.”

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

Due to the existence of the T-turn around at Widows Care Road, the Applicants' property is uniquely impacted in that the line along which the barn is situated would normally be a side yard line, which requires only a 10 foot setback. This unusual feature causes the Applicants practical difficulty in that this caused the barn to be improperly situated by their contractors.

There would be no adverse impact on any surrounding property, and, indeed, the location of the barn is perhaps less intrusive at its present location then it would be at most any other location on the property.

CONCLUSION:

It is accordingly recommended the requested variance be granted subject to the following:

1. The Applicants shall obtain all necessary permits and inspections for the barn.
2. The barn storage building shall be for the personal use of the Applicants.
3. The building shall not be used for the furtherance of any business.
4. The building shall not be used for the storage of commercial vehicles and/or contractors equipment.
5. Upon a finding that the building is used in violation of these conditions, the variance approval shall immediately be rescinded.

Date: June 2 , 2004

ROBERT F. KAHOE, JR.
Zoning Hearing Examiner